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09/966,254	09/28/2001	Frederick Schuessler	1062	5149

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EXAMINER

KOYAMA, KUMIKO C

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/966,254

Applicant(s)

SCHUESSLER ET AL.

Examiner

Kumiko C. Koyama

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

Acknowledgement is made of receipt of Amendment filed on April 16, 2003.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tom et al (US 5,262,625) in view of Reber et al (US 6,412,695).

Re claim 1 and 2: Tom discloses a bar code symbology comprising a set of symbols including characters having patterns of bars and spaces, each character spanning a distance of m module widths and being represented by n bars and p interleaved spaces, the largest single bar or space being limited to k modules in width, each symbol having a human recognizable graphic element provided among and visually distinguished in appearance the pattern of bars and spaces, at least a portion of the graphic element being machine readable and recognizable by a decoder as a portion of a respective symbol (col 3 lines 43-48, Fig 8, col 5 lines 19-32, col 6 lines 10+, col 26 lines 60-61).

Tom fails to teach that the graphic element constituting a graphical user interface that graphically conveys to a human operator a visual message that a known action will be initiated upon reading of the respective symbol.

Reber discloses a bar code comprising a plurality of bars, each bar having a length and a width, wherein the widths of the bars varies in order to represent the bar code and wherein the lengths of the bars varies in a configuration that conforms to a delineator form factor of a specific item for identifying the item shape such that a viewer can identify the bar code meaning without having a bar code reading device and for conveying information regarding the bar code (col 3, lines 40-50). The delinator functions to provide information to a user regarding the location of the corresponding optical code 10 and/or the purpose and/or function of the data contained within the optical code 10 (such as a task that can be initiated, which task possibly uses other data that pertinent to the user) (col 3, lines 15-20, Fig. 6-8). Reber shows that the bars and spaces have different height to conform the bar code to a delineator form factor (Fig. 6-8).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Reber to the teachings of Tom so that the user can quickly determine the intended use of the bar code to make sure that the user is reading or obtaining correct data through the bar code reader.

Re claim 3 and 7: Tom teaches that the graphic element is a fixed width pattern of bars and spaces and comprises three bars and three spaces (col 5 lines 30-31). If the width pattern of bars and spaces are fixed, and comprises three bars and three spaces, the ratio of bar/space combinations is fixed as well.

Re claim 4: Tom fails to teach that the graphic element of Fig 8 includes an area of white space used by a decode algorithm.

However, he graphic element of Fig 2 includes an area of white spaces.

Although not specifically mentioned, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to conclude that the spaces in Fig 2 are white space because upon using an optical scanner, white spaces are in distinctive contrast with the black bars and give a clear difference in reflective light, which enhances the reading and processing of the barcode symbol.

Re claim 5: Tom also teaches that the graphic element may have a fixed width (col 5 lines 30-31).

Re claim 6: Tom further teaches a predetermined start pattern and a predetermined stop pattern (col 5 lines 22-26).

Re claim 8: Tom further teaches that the largest single bar or space pattern is limited to four modules in width (col 5 lines 31-32).

Re claim 9: Tom further teaches that  $n$  is equal to three and each character spans a distance of 11 modules (col 5 lines 27-32).

Re claim 10 and 11: Tom fails to teach that the symbology excludes from valid patterns a pair of patterns that Code 128 uses as a stop pattern. Tom also fails to teach that the symbology excludes from valid patterns three Code 128 start patterns except for check characters adjacent the predetermined stop pattern.

However, Tom teaches other start and stop patterns as shown in Fig 9.

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to modify the start and stop patterns to patterns other than those used in Code 128 in order to provide a faster reading symbol because the unique start/stop character allows the symbol to be scanned bidirectionally.

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Re claim 12: Tom further teaches a label substrate (col 5 line 20).

Re claim 13: Tom further teaches an optical scanner 31 (col 6 lines 11-12).

Re claim 14: Tom further teaches an apparatus for generating a signal representative of information encoded in a machine-readable symbol, the apparatus comprising a scanner 31 (col 6 lines 10+), a detector (col 6 lines 33+) and a decoder (col 26 lines 22-28).

Re claim 15: Tom further teaches a method of decoding a bar code symbology that stores computer-executable instructions on a computer-readable medium comprising a scanner 31 (col 6 lines 10+) and a decoder (col 26 lines 22-28).

3. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tom as modified by Reber, and further in view of Ackley (US 5,939,700). The teachings of Tom as modified by Reber have been discussed above.

Tom further teaches that the representation of the symbol is printed on a label (col 3 lines 34-35).

However Tom fails to teach an apparatus comprising means for producing a representation of a symbol and means for printing the representation on a substrate.

Ackley teaches a bar code symbol printing apparatus (Fig 1, col 6 lines 41-42).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Ackley to the teachings of Tom and Reber and provide a printing apparatus for producing a bar code so that items may be labeled with the bar code to uniquely identify the item.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

The Applicant has introduced new limitations in the newly amended claims 1-16. Claims 1-16 include new limitations, such as "the graphic element constituting a graphical user interface that graphically conveys to a human operator a visual message that a known action will be initiated upon reading of the respective symbol." Such new limitations necessitated additional search and new references for rejection.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kumiko C. Koyama whose telephone number is 703-305-5425.

The examiner can normally be reached on Monday-Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

*Kumiko C. Koyama*  
Kumiko C. Koyama  
June 23, 2003

  
MICHAEL G. LEE  
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